

**REMARKS**

Claims 1 and 3-33 remain pending in the application.

**Claims 1, 3-7, 12-21 and 26-29 over Lechleider in view of Bellenger and Lu**

In the Office Action, claims 1, 3-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger et al., U.S. Patent No. 6,058,110 ("Bellenger") and U.S. Patent No. 6,870,899 to Lu et al. ("Lu"). The Applicants respectfully traverse the rejections.

Claims 1, 3-7 and 12-15 recite receiving a subscriber login request while a DSL portion of a combination analog/DSL modem is not provisioned for DSL service, and provisioning DSL service on said service line if suitability is determined to support DSL service, wherein the DSL service is automatically qualified for service. Claims 16-21 recite program code for logging into a network site via an analog modem portion of a combination analog/DSL modem while a DSL portion is not provisioned for DSL service, and program code for receiving provisioned DSL services when the service line is tested to be suitable to support DSL services, the combination analog/DSL modem being automatically switched to use of a DSL portion after provisioning. Claims 27-29 recite a parameter reference module adaptively connected to said combination analog/DSL modem adapted to instruct a service provider to attempt provision of DSL service on the service line if suitability is determined to support DSL service.

Thus, claims 1, 3-7, 12-21 and 26-29 recite an analog/DSL modem for efficient provisioning of DSL service.

The Examiner alleged that Lechleider discloses provisioning of DSL service on a service line if suitability is determined to support DSL service at col. 7, lines 40-47. However, Lechleider at col. 7, lines 40-47 discloses:

Furthermore, processor 119 may also be used to create a list of subscriber loops meeting ADSL band deployment criteria. The list would then be available to a service provider and may be tailored to particular geographic areas, i.e., all the user in a particular town. As will be recognized by those in the art, the use of web servers and storage medias provides the capability to perform potential ADSL customer searches based on many different demographics.

Lechleider builds a list of subscriber loops meeting ADSL band deployment criteria. However, the ADSL band deployment criteria disclosed by Lechleider must be read within context of Lechleider's entire disclosure, i.e., predicting the performance of broadband transmission channels by using voiceband negotiation information collected by analog modems (See Abstract). Applicants' claimed provision comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device. Lechleider fails to even mention provisioning of DSL service, much less disclose or suggest use of a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-21 and 26-29.

The Examiner acknowledges that Lechleider fails to disclose use of an analog/DSL modem wherein the combination analog/DSL modem is not provisioned for DSL service until the suitability of the service line is tested. (See Office Action, page 3). The Office Action relies on Bellenger and Lu to allegedly make up for the deficiencies in Lechleider to arrive at the recited features. The Applicants respectfully disagree.

Bellenger at col. 2, lines 60-67 is cited by the Examiner as allegedly discloses an analog/DSL modem that provides analog service while operating in the analog (voice) band and DSL service while operating in the DSL band (See Office Action at 3). Bellenger discloses a modem that operates in a plurality of bands, with operation in the DSL band if the telephone line is capable of carry signals in the DSL band (see Bellenger col. 2, lines 57-67). Bellenger's modem that is capable of operating in a plurality of band is never disclosed as being used for provisioning, as recited by claims 1, 3-7, 12-21 and 26-29.

Lu is cited by the Examiner to disclose provisioning of a DSL line at col. 3, lines 1-5, col. 1 and 2 Background. However, Lu at col. 1, lines 31-35 simply discloses that ADSL does not require provisioning of any new lines but instead can be executed over a single twisted-wire pair, such as an existing

telephone line. Lu's invention is directed toward qualifying loops for ADSL service that does not require provisioning (see col. 4, lines 44-47). Thus, although Lu mentions provisioning of DSL service in the Background of the Invention, Lu's invention is directed toward service loops that do not require provisioning. Thus, Lu's invention fails to disclose or suggest provisioning. However, even if Lu disclosed provisioning, which Lu fails to do, Lu fails to disclose or suggest use of a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-21 and 26-29.

Moreover, the Examiner alleged that it would have been obvious to modify Lechleider with the disclosure of Bellenger "because the DSL band modem would be automatically provisioned and qualified for DSL band communications as taught by Bellenger and would advantageously modify the method of Lechleider by removing the step of replacing the analog (voice) band modem with one that operates in the DSL band (a DSL modem)" in the Office Action at page 3. However, as discussed above, Lechleider's invention has nothing to do with provisioning of DSL service as recited by the claims. Thus, there is nothing within either Lechleider or Belleger that discloses or suggests modifying Lechleider to use of a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-21 and 26-29.

Thus, the only reference that discloses use of a modem that is able to operate within multiple bands, Bellenger, fails to disclose or suggest use of that modem to facilitate provisioning of DSL service. The only reference that mentions provisioning, Lu, fails to disclose provisioning as part of his invention. Lechleider in view of Bellenger and Lu would still fail to disclose, teach or suggest use of a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a subscriber's

location, a central office and a service provider's complementary DSL device, as recited by claims 1, 3-7, 12-21 and 26-29.

Accordingly, for at least all the above reasons, claims 1 and 3-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

**Claims 8-11, 22-25 and 30-33 over Lechleider in view of Bellenger, Lu and Vogt**

In the Office Action, claims 8-11, 22-25 and 30-33 were rejected under 35 USC 103(a) as allegedly being obvious over Lechleider in view of Bellenger and Lu, and further in view of U.S. Pat. No. 5,625,667 to Vogt, III et al. ("Vogt").

Claims 8-11 recite receiving a subscriber login request while a DSL portion of a combination analog/DSL modem is not provisioned for DSL service, and provisioning DSL service on said service line if suitability is determined to support DSL service, wherein the DSL service is automatically qualified for service. Claims 22-25 recite program code for logging into a network site via an analog modem portion of a combination analog/DSL modem while a DSL portion is not provisioned for DSL service, and program code for receiving provisioned DSL services when the service line is tested to be suitable to support DSL services, the combination analog/DSL modem being automatically switched to use of a DSL portion after provisioning. Claims 30-33 recite a parameter reference module adaptively connected to said combination analog/DSL modem adapted to instruct a service provider to attempt provision of DSL service on the service line if suitability is determined to support DSL service.

Thus, claims 8-11, 22-25 and 30-33 recite an analog/DSL modem for efficient provisioning of DSL service.

As discussed above, Lechleider in view of Bellenger and Lu fails to disclose, teach or suggest use of a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a

subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

The Examiner relied on Vogt to allegedly disclose tip and ring voltage that can be measured to calculate the capacitance and resistance of a telephone line and measurement of parameters of a telephone line to detect potential problems (see Office Action, page 11). However, Vogt fails to disclose or suggest use of a combination analog/DSL modem for any reason, much less a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

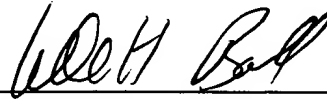
Thus, Lechleider in view of Bellenger, Lu and Vogt fails to disclose, teach or suggest a combination analog/DSL modem to facilitate provisioning of DSL service that comprises provisioning a connection between a subscriber's location, a central office and a service provider's complementary DSL device, as recited by claims 8-11, 22-25 and 30-33.

Accordingly, for at least all the above reasons, claims 1 and 3-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

**Conclusion**

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



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William H. Bollman

Reg. No.: 36,457

Tel. (202) 261-1020

Fax. (202) 887-0336

**MANELLI DENISON & SELTER PLLC**

2000 M Street, N.W. 7<sup>th</sup> Floor

Washington D.C. 20036-3307

WHB/df